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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,753	09/18/2003	Paolo Salvoni	785-011502-US (PAR)	4116
2512	7590	06/03/2005	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			HUYNH, LOUIS K	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/664,753	Applicant(s) SALVONI, PAOLO	
	Examiner Louis K. Huynh	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
 4a) Of the above claim(s) 1-6 and 14 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 7-13 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>21704 & 101404</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II, claims 7-13, in the reply filed on May 11, 2005 is acknowledged.
2. Claims 1-6 and 14 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 11, 2005.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

4. The specification is objected to for lacking proper headings in accordance to current U.S. practice. Applicant is respectfully requested to amend the specification to include proper headings.

Claim Objections

5. Claim 7 is objected to because of the phrase "a packaging container according to claim 1" refers to a withdrawn claim. Applicant is respectfully requested to rewrite the claim in proper independent form because claim 7 is directed to a different statutory class of invention from that of claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 7-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7, lines 2-3: “having an upper part and a lower part arranged vertically movable against each other” renders the claim indefinite because it is unclear as to whether the packaging machine or the packaging container is having the upper and lower parts that are arranged vertically movable against each other. However, it is assumed that the packaging machine is the one that has the upper and lower part that are arranged vertically movable against each other and the machine is known in the art.

Claim 7, line 6: “preferably” render the claim indefinite for it is unclear whether the limitation following the phrase is a part of the claim.

Claim 8, line 3: “means are lifting means” is indefinite because it is unclear as to which of the means in claim 7 applicant is referring. For example: the claim is indefinite if means for evacuation are lifting means, or the claim is indefinite if the means for sealing are lifting means.

Claim 8, line 3: “the tray” lacks proper antecedent basic.

Claim 8, line 4: “the lid” lacks proper antecedent basic.

Claim 9, line 3: “the tray” lacks proper antecedent basic.

Claim 9, line 3: “the lid” lacks proper antecedent basic.

Claim 10, line 3: “the tray” lacks proper antecedent basic.

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Claim 10, line 4: "the lid" lacks proper antecedent basic.

Claim 11, line 2: "the means" is indefinite for it is unclear as to which means in claim 7 applicant is referring.

Claim 11, lines 2-3: "those parts of the lid which protrude to the area of the tray" lacks proper antecedent basic.

Claim 11, line 3: "the lid" lacks proper antecedent basic.

Claim 11, line 3: "the tray" lacks proper antecedent basic.

Claim 12, line 2: "the means" is indefinite for it is unclear as to which means in claim 7 applicant is referring.

Claim 12, line 2: "preferably" render the claim indefinite for it is unclear whether the limitation following the phrase is a part of the claim.

Claim 12, line 4: "the tray" lacks proper antecedent basic.

Claim 12, line 5: "the upper edge of the tray" lacks proper antecedent basic.

Claim 13, line 2: "the means" is indefinite for it is unclear as to which means in claim 7 applicant is referring.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 7, 8 and 13, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lang (US 4,154,044).

Lang discloses a packaging machine including: an upper part (15); a lower part (4) containing a receptacle for holding a container (6); means (plate 22) for opening the container (6); means (vacuum line 36) for evacuation; and means (sealing device 14) for sealing the container (6); wherein the means for opening (22) are mounted on spring elements (26), the means for opening are lifting means comprising a magnet (27) that lifts a lid (28) from the container (6).

9. Claims 7, 8, 11 and 12, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Gorlich (US 5,419,096).

Gorlich discloses a packaging machine including: an upper part (90); a lower part (92) containing a receptacle (40) for holding a container (10); means (at least four tubes 30) for opening the container (10); means (vacuum line 36) for evacuation; and means (56) for sealing a

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lid (18) to the container (10); wherein the means for opening (30) extend to raise the lid (18) prior to evacuation (col. 7, lines 51-54).

10. Claims 7-10, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Takahashi et al. (US 6,694,709).

Takahashi discloses a packaging machine including: an upper part (6); a lower part (5) containing a receptacle (2) for holding a container (21); means (15) for opening the container (21); means (V) for evacuation; and means (3) for sealing a lid (23) to the container (10); wherein the means for opening (15) is capable of: lifting the lid and/or holding the lid at a fixed position; the receptacle (2) is capable of: holding the container and/or moving the container downward; and the packaging machine is capable of: holding the container while lifting the lid, or holding the lid while moving the container downward, or lifting the lid while moving the container downward because both the means for opening (15) and the receptacle (2) are capable of moving relative to each other.

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Conclusion

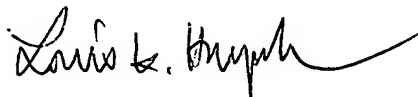
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (571) 272-4462.

The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh
PRIMARY EXAMINER
Art Unit 3721

May 31, 2005